

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

TAYLOR BAGLEY

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

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8:16-CV-30

COMPLAINT
AND DESIGNATION
OF PLACE OF TRIAL

Plaintiff states as follows:

1. Plaintiff, Taylor Bagley, is a citizen of the State of Nebraska. He is presently a college student and resides with his parents, Ronda and Ryan Bagley in the State of Nebraska.

2. Jurisdiction in this matter is based upon 28 U.S.C. §1346(b) and 28 U.S.C. §§2671, 2680, commonly known as the Federal Tort Claims Act (FTCA).

3. As required by statute, Ronda Bagley, mother of the Plaintiff Taylor Bagley, presented a claim as the mother and natural guardian of Taylor Bagley on Standard Form 95 with the Defendant by mailing a copy to the Hospital Administrator of 2D Medical Group, Barksdale AFB, LA. At the time of the filing of the claim, Taylor Bagley was still a minor. This Tort Claim Form was received on or about February 14, 2014, and was assigned Barksdale AFB Claim Number 14-8348. A copy of this claim and receipt thereof is attached hereto as Exhibit "A" and is incorporated herein by way of reference.

4. The United States of America has neither allowed nor denied this claim within six (6) months of receipt of the claim, and Plaintiff is authorized to file this action.

5. That at all times material to this action, Ronda Bagley was not a member of the

armed forces of the United States of America. Her husband, Ryan Bagley, is in fact a member of the armed forces of the United States of America

6. On March 5, 1997, Taylor Bagley, then nine (9) months of age, was admitted as a patient to the 2D Medical Group Hospital located at Barksdale Air Force Base in Louisiana. At that time, an operation known as a right inguinal hernia repair and left groin exploration was performed.

7. The operation was performed by Dr. Thomas C. McFadden, Jr. At the time of this operation, Dr. Thomas C. McFadden, Jr. was an agent and employee of the United States of America. The surgical nurses, anesthesiology team, and all individuals in the operating room during this operation were agents and employees of the United States of American, and were acting within the course and scope of their employment with the United States of America.

8. From the time of this operation on February 5, 1997 through the present time, Taylor Bagley experienced pain in the area of his right groin. Sometime prior to June 17, 2013, an abdominal x-ray was performed on Taylor Bagley, and this x-ray indicated the presence of a foreign object located over the right pubic area of Taylor Bagley. This foreign object was the source of the pain which Taylor Bagley had been experiencing for a number of years.

9. On June 17, 2013, Taylor Bagley was admitted as a patient to Bellevue Medical Center in Bellevue, Sarpy County, Nebraska. On that date, Dr. Steve I. Chen performed an operation on Taylor Bagley to remove the foreign object. The operation was a success. The foreign object was removed and later identified by pathologists at Bellevue Medical Center as being consistent with a metallic tool which had used during the course of the right inguinal hernia repair and left groin exploration performed by Dr. Thomas C. McFadden, Jr., at 2D Military Group Hospital at Barksdale Air Force Base, Louisiana.

10. The agents and employees of the United States of America who performed the operation on Taylor Bagley on March 5, 1997, were negligent in their care and treatment of Taylor Bagley in each and all of the following respects:

- (a) In leaving a surgical instrument in the abdominal cavity of Taylor Bagley at the conclusion of the operation;
- (b) In failing to properly count the surgical instrument prior to the closure of the operative site of Taylor Bagley;
- (c) In failing to perform and conduct an adequate instrument count prior to closing the surgical incision of Taylor Bagley;

12. As a direct and proximate result of the negligence of the agents and employees of the United States of America, Taylor Bagley has suffered the following by way of injuries and damages:

- (a) Unnecessary surgery at Bellevue Medical Center for the removal of this foreign object;
- (b) Pain and suffering in the past and it is reasonably certain he will sustain pain and suffering for an indefinite period of time in the future;
- (c) Permanent injury;
- (d) Permanent disability;
- (e) Permanent impairment of his earning capacity.

WHEREFORE, Plaintiff, Taylor Bagley, prays for judgment against the Defendant, United States of America, as follows:

- A) For special damages and general damages in the amount of \$750,000.00;
- B) For post-judgment interest at the maximum legal rate;
- C) For costs of suit incurred herein; and

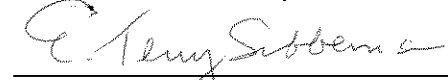
D) For such other and further relief as the court deems just and proper.

DESIGNATION OF PLACE OF TRIAL

Plaintiffs request that this matter be tried in Omaha, Nebraska.

TAYLOR BAGLEY, PLAINTIFF

By:



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